

with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not in issue in such proceeding.

(2) For purposes of the special period of limitation for filing a claim for credit or refund of an overpayment of tax with respect to a computation year (as defined in section 1302(c)(1)) by an individual who has chosen to compute his tax under sections 1301 through 1305 (relating to income averaging), such claim is determined to relate to an overpayment attributable to a net operating loss carryback when such carryback relates to any base period year (as defined in section 1302(c)(3)). Thus, if (i) an individual has a net operating loss for a taxable year subsequent to a taxable year for which he had chosen the benefits of income averaging, and (ii) such net operating loss carryback is wholly utilized in any one or more of his base period years (which would result in an increased amount of averageable income for such computation year), the special period of limitation with respect to such individual's computation year applies and a timely claim for credit or refund with respect to the computation year may be filed.

[T.D. 7196, 37 FR 13691, July 13, 1972, and T.D. 7301, 39 FR 976, Jan. 4, 1974]

**§ 301.6511(d)-3 Special rules applicable to credit against income tax for foreign taxes.**

(a) *Period in which claim may be filed.* In the case of an overpayment of income tax resulting from a credit, allowed under the provisions of section 901 or under the provisions of any treaty to which the United States is a party, for taxes paid or accrued to a foreign country or possession of the United States, a claim for credit or refund must be filed by the taxpayer within 10 years from the last date prescribed for filing the return (determined without regard to any extension of time for filing such return) for the taxable year with respect to which the claim is made. Such 10-year period

shall be applied in lieu of the 3-year period prescribed in section 6511(a).

(b) *Limit on amount to be credited or refunded.* In the case of a claim described in paragraph (a) of this section, the amount of the credit or refund allowed or made may exceed the portion of the tax paid within the period prescribed in section 6511 (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit against income tax referred to in paragraph (a) of this section.

**§ 301.6511(d)-4 Overpayment of income tax on account of investment credit carryback.**

(a) *Special period of limitation.* (1) If the claim for credit or refund relates to an overpayment of income tax attributable to an investment credit carryback, provided in section 46(b), then in lieu of the 3-year period from the time the return was filed in which the claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be whichever of the following 2 periods expires later:

(i) The period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which resulted in the carryback (or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of such subsequent taxable year); or

(ii) The period which ends with the expiration of the period prescribed in section 6511(c) within which a claim for credit or refund may be filed with respect to the taxable year of the unused investment credit which resulted in the carryback.

(2) In the case of a claim for credit or refund involving an investment credit carryback described in subparagraph (1) of this paragraph, the amount of the credit or refund may exceed the portion of the tax paid within the period